



**Department of Liquor Control**

**Report to the General  
Assembly on Tobacco  
Compliance Tests  
Conducted During  
Calendar Year 2008**

**January 15, 2009**





**State of Vermont**

**Department of Liquor Control**

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*Michael J. Hogan, Commissioner*

January 15, 2009

The Clerk of the House of Representatives

The Secretary of State

The Legislative Council

Pursuant to Section 13(c) of Act No 58 of 1997 and 2 V.S.A. § 22, there is enclosed our Department's report on tobacco compliance tests conducted during the calendar year 2008.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Hogan". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Michael J. Hogan  
Commissioner of Liquor Control



**Liquor Control Board:**

*Walter E. Freed, Chairman; John P. Cassarino, Member; Stephanie M. O'Brien, Member*

### Act 58 Report Summary

The Department of Liquor Control conducted tobacco compliance tests as required by Act No. 58 of 1997 for the calendar year of 2008. The overall percentage of those licensees who did not sell tobacco to minors was 89%. The compliance rate for Fiscal Year 2008 (July 2007 -June 2008) was 88%. It should be noted that the total number of licensees checked for compliance are made up of individual clerks who are trained by DLC, trained by their employer, or not trained at all. Also, Vermont is one of a few states to use 17-year-olds exclusively for compliance tests. Vermont's compliance data is statistically incomparable to that of other states using 15 and 16 year old minors.

As of July 1, 2008, the Department of Liquor Control is issuing tobacco licenses after Legislature passed (H149). This will allow the department to have a more accurate database of information for licensing and compliance testing.

Some national studies indicate that aggressive enforcement programs that have raised compliance rates in the mid-to-high 80% range have had no impact upon teenage tobacco use rates (in part because of a shift to social sources when commercial sources are less plentiful). The Vermont Department of Liquor Control (DLC) has observed a strong correlation between education of licensees and their employees and increased success in compliance testing rates. **For licensees educated by Vermont Department of Liquor Control's Education Division, rates of tobacco compliance have consistently (over the past 12 months) exceeded a 90% success rate, with an average of 93% (see attachments).**

The need to encourage licensees and their employees to attend DLC seminars is underscored by this data. The department has produced a new training video and will be available in 2009 for all licensees and employees.

In addition, testing of seminar attendees will begin in 2009 to ascertain the effectiveness of the educational program and its content.

# **REPORT TO THE GENERAL ASSEMBLY ON TOBACCO COMPLIANCE TESTS CONDUCTED DURING CALENDAR YEAR 2008**

This report is called for by section 13 (c), Act No. 58 of 1997.

## **1. BACKGROUND: TOBACCO COMPLIANCE TESTS**

"Federal law requires that all states, as a condition of receiving substance abuse prevention and treatment block grant funding, comply with section 1926 of the Public Health Service Act, otherwise known as the "Synar Amendment." In order to meet this requirement, states must have demonstrated a measurable reduction in retail tobacco sales to underage youth in the years subsequent to the "Synar Amendment" and to demonstrate a continuation of the reductions in sales.

One major component of the federal requirement is that states must conduct a statewide retail "compliance check" survey. The purpose of this survey is to gather information regarding the prevalence of illegal retail sales of tobacco products to underage youth. This survey is conducted on an annual basis as an ongoing measure to gauge progress in decreasing the incidence of such sales. The information gathered in the survey is reported annually to the U.S. Department of Health and Human Services, in compliance with the federal Synar legislation." (1997 Synar, State of Wisconsin Website)

"In July 1992, Congress enacted the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act (P.L. 103-321), which includes an amendment (Section 1926) aimed at decreasing access to tobacco products among individuals under the age of 18. Named for its sponsor, Congressman Mike Synar of Oklahoma, the Synar Regulation requires states to enact and enforce laws prohibiting any manufacturer, retailer, or distributor from selling or distributing tobacco products to individuals

under the age of 18. The goal of the amendment is to reduce the number of successful illegal purchases by minors to no more than 20% in each state within a negotiated time period.” (Synar Regulation: Sample Design Guidance, Center for Substance Abuse Prevention, 1996)

### **Funding for Compliance Checks in Vermont**

#### **1997**

Section 12, Act No. 58 of 1997 directed the Department of Liquor Control (DLC) to carry out “compliance tests of tobacco licensees as frequently and as comprehensively as necessary to assure consistent statewide compliance with the prohibition on sales to minors of at least 90 percent for 17-year old buyers.” Prior to Act 58, the Department of Liquor Control conducted tobacco compliance tests that met the Federal Synar requirements. The Department of Liquor Control funded these tests.

#### **1998**

Section 71 of the FY98 Appropriations Act (Act No. 61 of 1997) appropriated \$80,000 to the Department “to purchase contract services to provide compliance checks and enforcement relating to the sale of tobacco products to minors.” Pursuant to this authority and appropriation, the Department issued a request for proposals to carry out these tests. After going through the RFP process, Thomas Radecki, doing business as Doctors & Lawyers for a Drug Free Youth in Carbondale, Illinois, was the sole bidder.

The Department entered into a contract, for an amount not to exceed \$50,000, to carry out these tests in calendar year 1998. February-September 1998 compliance tests also conformed to protocols and sampling methods, supplied to the Liquor Control Department by the Vermont Department of Health, to comply with the requirements of the Federal Government’s Synar regulations. The contract with Mr. Radecki terminated Oct. 31, 1998. The cost for contract services totaled \$20,034.

## **1999**

The Legislature declined to make any appropriation for fiscal year 1999 compliance tests and indicated the Department should accept a contract from the Federal Food & Drug Administration under which Department of Liquor Control employees would carry out tobacco compliance checks for the FDA. Pursuant to the Legislature's directive, the Department entered into such a contract with the FDA.

In September 1998, DLC applied for the FDA grant. The grant period was initially for 9-98 to 9-99. In November 1998 the FDA Grant was delayed by the Joint Fiscal Committee for Legislative review in the 1999 Legislative session. The Legislature approved the grant in May 1999 and the Department conducted its first FDA Grant compliance test that month. The Department conducted 1,184 tests from May to December 1999. Of that amount, 243 licensees sold tobacco products to minors, resulting in a 79% compliance rate.

## **2000**

The Department continued its tobacco compliance program in 2000, funded by the FDA grant. Beginning in 2000, during compliance tests, an additional enforcement officer now accompanies the minor and functions as a witness for the attempted purchase of tobacco products. Minors working with DLC for these "stings" are also now required to sign a form that explains the procedures for the compliance tests (see attachments). Additionally, tobacco education is now funded as part of the Alcohol Server Training Program provided to those licensees that hold both alcohol and tobacco licenses. The Department's Education Unit also offers Tobacco Education to those licensees who request it.

On March 21, 2000, the U.S. Supreme Court ruled that the FDA lacks the authority to regulate tobacco products. The FDA grant ended abruptly. DLC complied with Act 58, and the Department began using monies appropriated from

the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

The tobacco compliance tests were conducted from January 2000 through December 2000. The number of licensees sampled was 1320. Those selling to 17-year-old minors totaled 298, or 23%. Those not selling to 17 year old minors totaled 1,022, or 77%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 298 licensees who failed the compliance test by selling to a minor, 227 asked for ID and 71 did not.

## **2001**

DLC complied with Act 58, and the Department again used monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

The tobacco compliance tests were conducted from January 2001 through December 2001. The numbers of licensees sampled were 1,279. Those selling to 17-year-old minors totaled 231, or 18%. Those not selling to 17 year old minors totaled 1,048, or 82%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 230 licensees who failed the compliance test by selling to a minor, 164 asked for ID and 66 did not.

## **2002**

DLC complied with Act 58, and the Department again used monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

The tobacco compliance tests were conducted from January 2002 through December 2002. The numbers of licensees sampled were 1,086. Those selling to 17-year-old minors totaled 155, or 14%. Those not selling to 17 year old minors totaled 931, or 86%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 155 licensees who failed the compliance test by selling to a minor, 112 asked for ID and 43 did not.

### **2003**

DLC complied with Act 58, and the Department began using monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol. The tobacco compliance tests were conducted from January 2003 through December 2003. The number of licensees sampled was 1,111. Those who sold to 17-year-old minors were 172 or 15%. Those not selling to 17 year old minors were 939 or 85%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 172 licensees who failed the compliance test by selling to a minor, 124 asked for ID and 48 did not.

### **2004**

DLC complied with Act 58, and the Department began using monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol. The tobacco compliance tests were conducted from January 2004 through December 2004. The number of licensees sampled was 1,614. Those who sold to 17-year-old minors were 179 or 11%. Those not selling to 17 year old minors were 1,435 or 89%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 179 licensees who failed the compliance test by selling to a minor, 110 asked for ID and 69 did not.

## **2005**

DLC complied with Act 58, and the Department began using monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

The tobacco compliance tests were conducted from January 2005 through December 2005. The number of licensees sampled was 1,421. Those who sold to 17-year-old minors were 179 or 13%. Those not selling to 17 year old minors were 1,242 or 87%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 179 licensees who failed the compliance test by selling to a minor, 108 asked for ID and 71 did not.

## **2006**

DLC complied with Act 58, and the Department began using monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

The tobacco compliance tests were conducted from January 2006 through December 2006. The number of licensees sampled was 1,523. Those who sold to 17-year-old minors were 177 or 12%. Those not selling to 17 year old minors were 1,346 or 88%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 177 licensees who failed the compliance test by selling to a minor, 108 asked for ID and 69 did not.

## **2007**

DLC complied with Act 58, and the Department began using monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

The tobacco compliance tests were conducted from January 2007 through December 2007. The number of licensees sampled was 1,434. Those who sold to 17-year-old minors were 188 or 13%. Those not selling to 17 year old minors were 1,246 or 87%. The results were further drilled down revealing how many sellers asked purchasers for an ID and how many did not, results are as follows. Of the 188 licensees who failed the compliance test by selling to a minor, 86 asked for ID and 102 did not.

## **2. COMPLIANCE TESTS RESULTS, BEFORE 2008**

The Department of Liquor Control conducted its first tobacco compliance tests in December 1994 and January 1995.

Four other compliance tests were carried out in 1996, two tests in 1997, eight in 1998, seven in 1999, twelve in 2000, twelve in 2001, twelve in 2002, and twelve in 2003, twelve in 2004, twelve in 2005, and twelve in 2006, and twelve in 2007. The results of these compliance tests were as follows:

### **SURVEY #1 - December 1994-December 1996**

# Licensees Sampled	1389	100%
# Licensees who sold tobacco products	435	31%
# Licensees not selling	954	69%

### **SURVEY #2 - June 1997 (SYNAR)**

# Licensees Sampled	465	100%
# Licensees who sold tobacco products	36	8%
# Licensees not selling	429	92%

### **SURVEY #3 - November 1997 (Chewing Tobacco)**

# Licensees Sampled	222	100%
# Licensees who sold tobacco products	17	8%
# Licensees not selling	205	92%

### **SURVEY #4 - February-September 1998 (Radecki)**

# Licensees Sampled	2007	100%
# Licensees who sold tobacco products	155	8%
# Licensees not selling	1852	92%

**SURVEY #5 - May- December 1999 (FDA Grant)**

# Licensees Sampled	1184	100%
# Licensees who sold tobacco products	243	21%
# Licensees not selling	941	79%

**SURVEY #6 -Jan-December 2000( Master Settlement Monies)**

# Licensees Sampled	1320	100%
# Licensees who sold tobacco products	298	23%
# Licensees not selling	1022	77%

**SURVEY #7 -Jan -December 2001 ( Master Settlement Monies)**

# Licensees Sampled	1279	100%
# Licensees who sold tobacco products	231	18%
# Licensees not selling	1048	82%

**SURVEY #8 Jan-December 2002 (Master Settlement Monies)**

# Licensees Sampled	1086	100%
# Licensees who sold tobacco	155	14%
# Licensees not selling	931	86%

**SURVEY #9 Jan-December 2003 (Master Settlement Monies)**

# Licensees Sampled	1111	100%
# Licensees who sold tobacco	172	15%
# Licensees not selling	939	85%

**SURVEY #10 Jan-December 2004 (Master Settlement Monies)**

# Licensees Sampled	1614	100%
# Licensees who sold tobacco	179	11%
# Licensees not selling	1435	89%

**SURVEY #11 Jan-December 2005 (Master Settlement Monies)**

# Licensees Sampled	1421	100%
# Licensees who sold tobacco	179	13%
# Licensees not selling	1242	87%

**SURVEY #12 Jan-December 2006 (Master Settlement Monies)**

# Licensees Sampled	1523	100%
# Licensees who sold tobacco	177	12%
# Licensees not selling	1346	88%

**SURVEY #13 Jan-December 2007 (Master Settlement Monies)**

# Licensees Sampled	1434	100%
# Licensees who sold tobacco	188	13%
# Licensees not selling	1246	87%

**3. METHODOLOGY AND PROCEDURES**

All compliance tests are carried out using procedures approved by the Vermont Attorney General's Office. With written parental permission, youth (minors) participate with the Department to help perform the compliance checks, also called "stings."

The selection of retailers to be tested is made by the Department of Liquor Control, utilizing software designed to randomly select retailers for testing from a database that is updated the first of every month. The following procedures are used in conducting tobacco compliance surveys:

**Tobacco Compliance Test Procedures: DLC Requires:**

- That written parental permission be obtained for participating youth (minors).
- A copy of the participating youth's birth certificate and a photograph for DLC's file.
- That participating youth will be supervised **at all times** by a Liquor Control Investigator. The Liquor Control Investigator will remain outside the establishment and in close proximity, or may enter shortly after the youth enters. An additional enforcement officer enters the establishment as a witness to verify the events taking place and also to assist in case the minor is threatened in any way.
- That participating youth will be given the money for the attempted purchase by a Liquor Control Investigator. The Investigator notes the amount of money given to the youth prior to entering the establishment.
- That participating youth will be instructed **not to misrepresent** their age or pressure the clerk to sell tobacco products.
- That participating youth will present valid photographic identification, if asked, when attempting to purchase tobacco products.
- That if asked about his/her age, the youth will admit to their correct age.
- That upon entering the tobacco-selling establishment the youth will attempt to observe the clerk selling the tobacco products to obtain a good physical description.
- That after the purchase attempt, the youth will exit with or without the tobacco products.
- That if tobacco products are purchased, an identifying sticker will be placed on the product to identify it with the tobacco compliance report, to be completed immediately.
- That after conducting tobacco stings (immediately afterward or at least within three days), the Liquor Control Investigator will inform licensees who sold tobacco products to youths. A citation is issued to the clerk by the Liquor Control Investigator who is then available to explain any penalties the licensee has incurred.
- That payment for assisting with the tobacco compliance check will be delivered to participating minor at a later date.

## NOTES ON THE AGES OF THE MINORS USED IN THE COMPLIANCE TESTS

When the Department began conducting tobacco compliance tests, the age of the minors ranged from 14 to 17, with most minors being 15 or 16.

Section 13 (a), Act No. 58 of 1997 directs the Department to carry out “compliance tests of tobacco licensees as frequently and as comprehensively as necessary to assure consistent statewide compliance with the prohibition on sales to minors of at least 90 percent for 17-year old buyers.”

Section 13 (a) took effect on July 1, 1997, after the 1997 cigarette compliance test had been completed. This test was carried out to comply with the Federal Government’s Synar mandate. The Federal Government recommends that 15 and 16-year olds be used in the Synar tests, and most, but not all, of the minors in this test were 15 and 16.

The majority of minors used in the Department’s first chewing tobacco sting, November 1997, consisted of 15 and 16-year olds. This was done so the chewing tobacco results could be compared with the cigarette tests without the distortion in comparative results that might occur if only 17-year olds were used. The Department currently uses 17-year old minors exclusively.

4. **TEST RESULTS FOR CALENDAR 2008- FY2008.** DLC complied with Act 58, and the Department began using monies appropriated from the National Master Tobacco Settlement. These monies continue to fund our tobacco compliance program and ongoing education efforts for tobacco and alcohol.

**The tobacco compliance tests were conducted from January 2008 through December 2008. The number of licensees sampled was 1,436. Those who sold to 17-year-old minors were 165 or 11%. Those not selling to 17 year old minors were 1,271 or 89%. The results were further drilled down revealing how many**

sellers asked purchasers for an ID and how many did not, results are as follows (See Attachments for details). Of the 165 licensees who failed the compliance test by selling to a minor, 86 asked for ID and 79 did not.

**Tobacco Compliance Tests (January 2008- December 2008)-Calendar**

<b># Licensees Sampled</b>	<b>1,436</b>	<b>100%</b>
<b># Licensees who sold tobacco</b>	<b>165</b>	<b>11%</b>
<b># Licensees not selling</b>	<b>1,271</b>	<b>89 %</b>

**Tobacco Compliance Tests (July 2007- June 2008) Fiscal 2008**

<b># Licensees Sampled</b>	<b>1,553</b>	<b>100%</b>
<b># Licensees who sold tobacco</b>	<b>204</b>	<b>13%</b>
<b># Licensees not selling</b>	<b>1,349</b>	<b>87 %</b>

The Department of Liquor Control, as mentioned above, has a dedicated Education Unit that travels all over the state conducting seminars on tobacco and alcohol laws. Tobacco Law is also a part of our overall Alcohol Servers Program. The Department issues signage for stores stating the law regulating the sale of tobacco products (VSA Title 7 Chapter 40). Colored stickers are issued as well, to help clerks calculate the date for tobacco and alcohol sales after reviewing birth dates on driver's licenses. DLC recommends that these stickers be prominently placed on or near the licensee's cash register to support and assist compliance efforts. Books are available showing all 50 states driver's licenses, as well as tear off sheets with dates for age calculation and various wall and counter posters on sales of tobacco to minors, to aid clerks in carrying out the laws regulating the sale of tobacco and alcohol. A new video is being provided in January 2009 to reflect any new law changes. There will also be pre and post testing of licensees and their employees to ascertain the effectiveness of the educational seminars.

## **5. LEGISLATIVE CHANGES: MANDATORY TOBACCO EDUCATION**

The 2001-2002 legislature enacted mandatory tobacco education:

Sec. 2. 7 V.S.A. § 1002a is added to read:

### **§ 1002a. LICENSEE EDUCATION**

(a) An applicant for a tobacco license that does not hold a liquor license issued under this title shall be granted a tobacco license pursuant to section 1002 of this title only after the applicant has met with a liquor control investigator for the purpose of being informed about the Vermont tobacco laws pertaining to the purchase, storage and sale of tobacco products. A corporation, partnership or association shall designate a director, partner or manager to comply with the requirements of this subsection.

(b) The holder of a tobacco license that does not also hold a liquor license issued pursuant to this title for the same premises shall:

(1) Complete the department's enforcement seminar at least once every three years. A corporation, partnership or association shall designate a director, partner or manager to comply with this subdivision.

(2) Ensure that every employee involved in the sale of tobacco products completes a training program approved by the department of liquor control before the employee begins selling or providing tobacco products, and at least once every 24 months thereafter. A licensee may comply with this subdivision by conducting its own training program on its premises using information and materials furnished by the department of liquor control. A licensee who fails to comply with the requirements of this subsection shall be subject to suspension of the tobacco license for no less than one day.

Approved: June 21, 2002

- **COMPLIANCE TEST WARNING TO TOBACCO LICENSEES FOR 1<sup>ST</sup> OFFENSE**

Sec. 1. 7 V.S.A. § 236(b) is amended to read:

(b) As an alternative to and in lieu of the authority to suspend or revoke any permit or license, the liquor control board shall also have the power to impose an administrative penalty of up to \$2,500.00 per violation against a holder of a wholesale dealer's license or a holder of a first, second or third class license for a violation of the conditions under which the license was issued or of this title or of any rule or regulation adopted by the board. The administrative penalty may be imposed after a hearing before the board or after the licensee has been convicted by a court of competent jurisdiction of violating the provisions of this title. The board may also impose an administrative penalty under this subsection against a holder of a tobacco license for up to \$100.00 for a first violation and up to \$1,000.00 for subsequent violations. For the first violation during a tobacco or alcohol compliance check during any three-year period, a licensee shall receive a warning and be required to attend a department server training class. Effective 7/1/2001

ACT RELATING TO LIQUOR IDENTIFICATION AND TOBACCO LICENSES

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 7 V.S.A. § 602 is amended to read:

§ 602. –EXHIBITION OF CARD

~~A person~~ An individual shall exhibit a ~~liquor control identification card~~, “a valid authorized form of identification,” which means a valid photographic operator’s license, enhanced driver’s license, or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport bearing the photograph and signature of the individual upon demand of a licensee, ~~or of an employee of a licensee, or of a law enforcement officer.~~ On the failure of ~~a person~~ an individual to produce and exhibit a ~~liquor control identification card, a valid photographic operator’s license or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport~~ valid authorized form of identification upon demand of a licensee, the licensee shall be entitled to refuse to sell the ~~person~~ individual any alcoholic beverage. Sale or furnishing of any alcoholic beverages by a licensee to a ~~person~~ an individual exhibiting a ~~liquor control identification card, a valid photographic operator’s license or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card, or a valid passport bearing the photograph and signature of the person~~ valid authorized form of identification shall be prima facie evidence of ~~such~~ the licensee’s compliance with the law prohibiting the sale or furnishing of alcoholic beverages to minors.

Sec. 2. 7 V.S.A. § 603 is amended to read:

§ 603. –LIQUOR CONTROL BOARD; RULES

The liquor control board shall make ~~such~~ rules and regulations ~~as may be~~ necessary to effectuate the purposes of sections 601, and 602, ~~669 and 670~~ of this title.

Sec. 3. 7 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

\* \* \*

(3) ~~“Person” shall mean any individual, firm, fiduciary, partnership, corporation, trust or association, however formed.~~

~~(4)~~ “Tobacco products” mean cigarettes, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut, and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking.

~~(5)~~(4) “Vending machine” means any mechanical, electronic, or other similar device which dispenses tobacco products for money.

~~(6)~~(5) “Tobacco license” means a license issued by the ~~legislative body of a municipality~~ department of liquor control under this chapter permitting the licensee to engage in the retail sale of tobacco products or locate a vending machine on the premises identified in the license.

~~(7)~~(6) “Bidis or Beedies” means a product containing tobacco that is wrapped in temburni leaf (*diospyros melanoxylon*) or tendu leaf (*diospyros exculpra*), or any other product that is offered to, or purchased by, consumers as bidis or beedies.

Sec. 4. 7 V.S.A. § 1002 is amended to read:

§ 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

(a) No person shall engage in the retail sale of tobacco products or provide a vending machine for their sale in his or her place of business without a tobacco license obtained from the ~~legislative body of the municipality where the products are to be sold~~ department of liquor control. Tobacco licenses shall expire midnight, April 30, of each year.

\* \* \*

(d) A person applying simultaneously for a tobacco license and a liquor license shall apply to the legislative body of the municipality and shall pay to the department only the fee required to obtain the liquor license. A person applying only for a tobacco license shall submit a fee of \$10.00 to the legislative body of the municipality for each tobacco license ~~obtained or renewed or renewal~~. The ~~city or town~~ municipal clerk shall forward the application to the department, and the department shall issue the tobacco license. The municipal clerk shall retain \$5.00 of this fee ~~as an issuance fee~~, and the remainder shall be deposited in the treasury of the municipality.

(e) A person who sells tobacco products without obtaining a tobacco license in violation of this section shall be guilty of a misdemeanor and fined not more than \$200.00 for the first offense and not more than \$500.00 for each subsequent offense. ~~The court shall remit from the proceeds of the fine the costs of investigation incurred by a municipality to the municipality, but no more than the costs of the investigation.~~

(f) ~~On or before the 15th of each month, the city or town clerk shall submit to the board the names, addresses and license numbers of all persons to whom a tobacco license was issued during the previous month. Each year on or before May 15, the city or town clerk shall submit to the board a list of all tobacco licenses that have been renewed for that year.~~ No individual under the age of 16 may sell tobacco products.

Sec. 5. REPEAL

The following sections in Title 7 are repealed:

- (1) § 601, relating to liquor control identification cards.
- (2) § 669, relating to liquor control identification cards.
- (3) § 670, relating to confiscation.

**Newly Adopted Regulations: Effective September 1, 2005**

Regulation 15: No person under sixteen years of age shall be permitted to sell alcoholic liquor or **tobacco** on a paid or voluntary basis within or in connection with the establishment of any licensee holding a second-class license.

**Newly Adopted Regulations Effective January 1, 2009**

See DLC Web Site for new changes affecting tobacco only:

**<http://liquorcontrol.vermont.gov/>**

**6. COMPLIANCE TEST PLANS FOR CALENDAR YEAR 2009** The Department of Liquor Control will test licensees as frequently as necessary to assure statewide compliance with the prohibition on sales to minors of at least 90% for 17-year old buyers. DLC will also continue its mandated education program to licensees and their employees. **The effectiveness of this program can be seen in recent statistics that show a 93% success rate for those licensee's employees who attend DLC seminars.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Hogan". The signature is fluid and cursive, with the first name "Michael" and last name "Hogan" clearly distinguishable.

MICHAEL J. HOGAN

Commissioner of Liquor Control

## **ATTACHMENTS:**

- **Tobacco Compliance Survey Results- Jan-Dec 2008-Calendar**
  - **Survey Results –Fiscal 2008**
- **Monthly Results- January 2008- December 2008**
- **Breakdown of how many tobacco licensees asked for ID's and how many did not ask for ID's.**
- **Effectiveness of DLC Educational Training**
- **List of states and ages of minors used for compliance tests.**
- **Procedures for Tobacco Purchase Compliance Survey**
- **Penalty Schedule For Tobacco Compliance Tests**

Vermont Department of Liquor Control  
Education, Licensing and Enforcement

**Tobacco Compliance Survey Results by Month**  
**January 2008 thru December 2008**

<b>Month</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
January 2008	128	21	16%	107	84%
February 2008	157	19	12%	138	88%
March 2008	126	15	12%	111	88%
April 2008	126	15	12%	111	88%
May 2008	121	19	16%	102	84%
June 2008	205	20	10%	185	90%
July 2008	134	12	9%	122	91%
August 2008	129	19	15%	110	85%
September 2008	97	9	9%	88	91%
October 2008	97	8	8%	89	92%
November 2008	68	3	4%	65	96%
December 2008	48	5	10%	43	90%
<b>TOTAL</b>	1436	165	11%	1271	89%

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by Month**  
**July 2007 thru June 2008**

<b>Month</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
July 2007	120	17	14%	103	86%
August 2007	123	19	15%	104	85%
September 2007	126	20	16%	106	84%
October 2007	131	20	15%	111	85%
November 2007	97	9	9%	88	91%
December 2007	93	10	11%	83	89%
January 2008	128	21	16%	107	84%
February 2008	157	19	12%	138	88%
March 2008	126	15	12%	111	88%
April 2008	126	15	12%	111	88%
May 2008	121	19	16%	102	84%
June 2008	205	20	10%	185	90%
<b>TOTAL</b>	<b>1553</b>	<b>204</b>	<b>13%</b>	<b>1349</b>	<b>87%</b>

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**January 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	14	2	14%	12	86%
Caledonia	11	2	18%	9	82%
Chittenden	14	4	29%	10	71%
Essex	1	1	100%	0	0%
Franklin	18	2	11%	16	89%
Lamoille	9	0	0%	9	100%
Orange	4	1	25%	3	75%
Orleans	3	0	0%	3	100%
Rutland	19	2	11%	17	89%
Washington	9	5	56%	4	44%
Windham	13	1	8%	12	92%
Windsor	13	1	8%	12	92%
<b>TOTAL</b>	128	21	16%	107	84%

Of the 21 tobacco licensees who sold tobacco products to a minor (17 years old), 13 requested valid photographic identification from the minor and made the sale. 8 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**February 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	4	0	0%	4	100%
Bennington	15	3	20%	12	80%
Caledonia	3	0	0%	3	100%
Chittenden	30	5	17%	25	83%
Franklin	10	2	20%	8	80%
Grand Isle	1	0	0%	1	100%
Lamoille	10	0	0%	10	100%
Orange	19	2	11%	17	89%
Orleans	10	0	0%	10	100%
Rutland	16	0	0%	16	100%
Washington	13	0	0%	13	100%
Windham	9	1	11%	8	89%
Windsor	17	6	35%	11	65%
<b>TOTAL</b>	<b>157</b>	<b>19</b>	<b>12%</b>	<b>138</b>	<b>88%</b>

Of the 19 tobacco licensees who sold tobacco products to a minor (17 years old), 12 requested valid photographic identification from the minor and made the sale. 7 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**March 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	1	0	0%	1	100%
Bennington	9	0	0%	9	100%
Caledonia	10	3	30%	7	70%
Chittenden	25	3	12%	22	88%
Essex	1	0	0%	1	100%
Franklin	1	0	0%	1	100%
Orange	8	1	13%	7	88%
Orleans	8	0	0%	8	100%
Rutland	24	2	8%	22	92%
Washington	11	2	18%	9	82%
Windham	12	3	25%	9	75%
Windsor	16	1	6%	15	94%
<b>TOTAL</b>	126	15	12%	111	88%

Of the 15 tobacco licensees who sold tobacco products to a minor (17 years old), 7 requested valid photographic identification from the minor and made the sale. 8 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**April 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	11	0	0%	11	100%
Bennington	10	0	0%	10	100%
Caledonia	3	1	33%	2	67%
Chittenden	27	3	11%	24	89%
Essex	4	0	0%	4	100%
Franklin	6	0	0%	6	100%
Grand Isle	4	0	0%	4	100%
Orange	7	1	14%	6	86%
Orleans	3	1	33%	2	67%
Rutland	15	3	20%	12	80%
Washington	10	1	10%	9	90%
Windham	7	0	0%	7	100%
Windsor	19	5	26%	14	74%
<b>TOTAL</b>	126	15	12%	111	88%

Of the 15 tobacco licensees who sold tobacco products to a minor (17 years old), 8 requested valid photographic identification from the minor and made the sale. 7 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**May 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	8	0	0%	8	100%
Bennington	11	0	0%	11	100%
Caledonia	4	1	25%	3	75%
Chittenden	19	2	11%	17	89%
Essex	1	1	100%	0	0%
Franklin	7	0	0%	7	100%
Lamoille	5	2	40%	3	60%
Orange	4	0	0%	4	100%
Orleans	8	3	38%	5	63%
Rutland	15	4	27%	11	73%
Washington	11	2	18%	9	82%
Windham	11	1	9%	10	91%
Windsor	17	3	18%	14	82%
<b>TOTAL</b>	<b>121</b>	<b>19</b>	<b>16%</b>	<b>102</b>	<b>84%</b>

Of the 19 tobacco licensees who sold tobacco products to a minor (17 years old), 6 requested valid photographic identification from the minor and made the sale. 13 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**June 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	6	0	0%	6	100%
Bennington	12	1	8%	11	92%
Caledonia	15	3	20%	12	80%
Chittenden	28	3	11%	25	89%
Franklin	25	4	16%	21	84%
Lamoille	10	0	0%	10	100%
Orange	10	0	0%	10	100%
Orleans	20	0	0%	20	100%
Rutland	17	2	12%	15	88%
Washington	25	4	16%	21	84%
Windham	18	0	0%	18	100%
Windsor	19	3	16%	16	84%
<b>TOTAL</b>	<b>205</b>	<b>20</b>	<b>10%</b>	<b>185</b>	<b>90%</b>

Of the 20 tobacco licensees who sold tobacco products to a minor (17 years old), 14 requested valid photographic identification from the minor and made the sale. 6 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**July 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	11	1	9%	10	91%
Bennington	10	0	0%	10	100%
Caledonia	7	1	14%	6	86%
Chittenden	16	1	6%	15	94%
Essex	1	0	0%	1	100%
Franklin	7	2	29%	5	71%
Lamoille	6	1	17%	5	83%
Orange	7	1	14%	6	86%
Orleans	10	0	0%	10	100%
Rutland	19	0	0%	19	100%
Washington	12	2	17%	10	83%
Windham	10	1	10%	9	90%
Windsor	18	2	11%	16	89%
<b>TOTAL</b>	<b>134</b>	<b>12</b>	<b>9%</b>	<b>122</b>	<b>91%</b>

Of the 12 tobacco licensees who sold tobacco products to a minor (17 years old), 6 requested valid photographic identification from the minor and made the sale. 6 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**August 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	3	1	33%	2	67%
Bennington	7	0	0%	7	100%
Caledonia	6	1	17%	5	83%
Chittenden	22	4	18%	18	82%
Franklin	13	4	31%	9	69%
Lamoille	10	0	0%	10	100%
Orange	3	0	0%	3	100%
Orleans	3	0	0%	3	100%
Rutland	20	6	30%	14	70%
Washington	12	2	17%	10	83%
Windham	11	0	0%	11	100%
Windsor	19	1	5%	18	95%
<b>TOTAL</b>	129	19	15%	110	85%

Of the 19 tobacco licensees who sold tobacco products to a minor (17 years old), 6 requested valid photographic identification from the minor and made the sale. 13 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**September 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	5	0	0%	5	100%
Bennington	7	0	0%	7	100%
Caledonia	10	0	0%	10	100%
Chittenden	16	1	6%	15	94%
Grand Isle	7	1	14%	6	86%
Lamoille	9	0	0%	9	100%
Orange	6	1	17%	5	83%
Orleans	5	2	40%	3	60%
Rutland	9	1	11%	8	89%
Washington	7	2	29%	5	71%
Windham	1	0	0%	1	100%
Windsor	15	1	7%	14	93%
<b>TOTAL</b>	<b>97</b>	<b>9</b>	<b>9%</b>	<b>88</b>	<b>91%</b>

Of the 9 tobacco licensees who sold tobacco products to a minor (17 years old), 4 requested valid photographic identification from the minor and made the sale. 5 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**October 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	8	0	0%	8	100%
Bennington	10	0	0%	10	100%
Caledonia	12	3	25%	9	75%
Chittenden	22	1	5%	21	95%
Essex	3	0	0%	3	100%
Franklin	5	0	0%	5	100%
Orange	1	1	100%	0	0%
Orleans	5	2	40%	3	60%
Rutland	6	0	0%	6	100%
Washington	8	0	0%	8	100%
Windham	9	1	11%	8	89%
Windsor	8	0	0%	8	100%
<b>TOTAL</b>	<b>97</b>	<b>8</b>	<b>8%</b>	<b>89</b>	<b>92%</b>

Of the 8 tobacco licensees who sold tobacco products to a minor (17 years old), 6 requested valid photographic identification from the minor and made the sale. 2 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**November 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	1	1	100%	0	0%
Bennington	10	0	0%	10	100%
Caledonia	5	0	0%	5	100%
Chittenden	7	0	0%	7	100%
Franklin	8	0	0%	8	100%
Lamoille	6	0	0%	6	100%
Orleans	8	0	0%	8	100%
Windham	10	0	0%	10	100%
Windsor	13	2	15%	11	85%
<b>TOTAL</b>	<b>68</b>	<b>3</b>	<b>4%</b>	<b>65</b>	<b>96%</b>

Of the 3 tobacco licensees who sold tobacco products to a minor (17 years old), 2 requested valid photographic identification from the minor and made the sale. 1 did not ask for identification.

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
**Tobacco Compliance Survey Results by County**  
**December 2008**

<b>County</b>	<b>Licensees Sampled</b>	<b>Licensees That Sold</b>		<b>Licensees That Did Not Sell</b>	
Addison	4	0	0%	4	100%
Bennington	5	1	20%	4	80%
Chittenden	22	0	0%	22	100%
Franklin	2	0	0%	2	100%
Lamoille	5	0	0%	5	100%
Orange	3	1	33%	2	67%
Washington	5	2	40%	3	60%
Windham	1	1	100%	0	0%
Windsor	1	0	0%	1	100%
<b>TOTAL</b>	48	5	10%	43	90%

Of the 5 tobacco licensees who sold tobacco products to a minor (17 years old), 2 requested valid photographic identification from the minor and made the sale. 3 did not ask for identification.

## **2008 Compliance Test Breakdown -Who Asked For ID / Who Did Not Ask For ID.**

**January** Of the **21** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **13 asked** for valid photo identification and made the sale. **8 did not ask** for any type of identification and made the sale.

**February** Of the **19** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **12 asked** for valid photo identification and made the sale. **7 did not ask** for any type of identification and made the sale.

**March** Of the **15** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **7 asked** for valid photo identification and made the sale. **8 did not ask** for any type of identification and made the sale.

**April** Of the **15** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **8 asked** for valid photo identification and made the sale. **7 did not ask** for any type of identification and made the sale.

**May** Of the **19** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **6 asked** for valid photo identification and made the sale. **13 did not ask** for any type of identification and made the sale.

**June** Of the **20** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **14 asked** for valid photo identification and made the sale. **6 did not ask** for any type of identification and made the sale.

**July** Of the **12** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **6 asked** for valid photo identification and made the sale. **6 did not ask** for any type of identification and made the sale.

**August** Of the **19** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **6 asked** for valid photo identification and made the sale. **13 did not ask** for any type of identification and made the sale.

**September** Of the **9** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **4 asked** for valid photo identification and made the sale. **5 did not ask** for any type of identification and made the sale.

**October** Of the **8** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **6 asked** for valid photo identification and made the sale. **2 did not ask** for any type of identification and made the sale.

**November** Of the **3** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **2 asked** for valid photo identification and made the sale. **1 did not ask** for any type of identification and made the sale.

**December** Of the **5** tobacco licensees who sold tobacco products to the 17 year old minor working for DLC, **2 asked** for valid photo identification and made the sale. **3 did not ask** for any type of identification and made the sale.

<u>Who Asked:</u>	<u>86</u>	<u>52%</u>
<u>Did Not Ask:</u>	<u>79</u>	<u>48%</u>
<b>Total:</b>	<b>165</b>	

Vermont Department of Liquor Control  
Education, Licensing and Enforcement  
January thru December 2008

Employee Training Counts

	Number of Employees	Sold	Did Not Sell	%Compliant
<b>First Class</b>				
Attended seminars	83	5	78	93.9%
Trained in-house	25	4	21	84.0%
Were not trained	22	3	19	86.3%
<b>Second Class</b>				
Attended seminars	315	24	291	92.3%
Trained in-house	226	28	198	87.6%
Were not trained	26	5	21	80.7%
<b>Tobacco</b>				
Attended seminars	774	51	723	93.4%
Trained in-house	564	88	476	84.3%
Were not trained	98	26	72	73.4%
<b>Total</b>				
Attended seminars	1172	80	1092	93.1%
Trained in-house	815	120	695	85.2%
Were not trained	146	34	112	76.7%

## **Ages of Minors Used in states performing tobacco compliance tests**

<b>State</b>	<b>Ages of Minors database</b>
Alabama	14-17
Alaska	15-18
Arizona	16
Arkansas	15-16
California	15-16
Colorado	14-17
Connecticut	15-17
Delaware	15-17
District of Columbia	14-17
Florida	14-17
Georgia	16
Hawaii	15-17
Idaho	15-17
Illinois	14-17
Indiana	14-16
Iowa	15-17
Kansas	15-17
Kentucky	14-17
Louisiana	14-17
Maine	15-17
Maryland	14-17
Massachusetts	14-17
Michigan	15-17
Minnesota	15-17
Mississippi	15-17
Missouri	16-17
Montana	14-17
Nebraska	14-17
Nevada	15-17
New Hampshire	15-17
New Jersey	14-17
New Mexico	15-17
New York	14-17
North Carolina	15
North Dakota	15-16
Ohio	14-16
Oklahoma	14-17
Oregon	14-16
Pennsylvania	14-17
Rhode Island	14-17
South Carolina	14-17
South Dakota	16
Tennessee	14-17
Texas	14-17

Utah	15-18
Vermont	17
Virginia	15-17
Washington	14-17
West Virginia	14-16
Wisconsin	15-17
Wyoming	15-17

American Samoa	15
Guam	14-16
Marshall Islands	
Micronesia	14-17
Northern Mariana Islands	16-17
Palau	15-18
Puerto Rico	18
Red Lake Band of Chippewa Indians	
Virgin Islands	14-16

VERMONT DEPARTMENT OF LIQUOR CONTROL  
Education, Licensing & Enforcement Division

PROCEDURES FOR TOBACCO PURCHASE COMPLIANCE SURVEY

1. Written parental permission must be obtained.
2. Copy of participating youth's birth certificate and photograph for file.
3. Participating youth will be supervised at all times by a Liquor Control Investigator. Liquor Control Investigator will remain outside the establishment and in close proximity, or may enter shortly after youth enters.
4. Participating youth will be given the money for the attempted purchase. Investigator to note amount of money given to the youth prior to entering the establishment.
5. Participating youth will be instructed not to misrepresent their age or pressure clerk to sell tobacco products.
6. Participating youth will present valid photographic identification if asked when attempting to purchase tobacco products.
7. If asked about his/her age, the youth will admit to their correct age.
8. Upon entering the tobacco selling establishment the youth will attempt to observe the clerk selling the tobacco products to obtain a good description.
9. After the purchase attempt, the youth will exit with or without the tobacco products.
10. If tobacco products are purchased, an identifying sticker will be placed on the product to identify it with the alcohol compliance report, which will be completed immediately.
11. After conducting tobacco stings (immediately afterward or at least within three days), the Liquor Control Investigator will inform licensees who sold tobacco products to youths.
12. Payment will be delivered to participating minor at a later date.
13. The minor information sheet for each participating minor will need to be submitted to the Montpelier office in order for payment to be remitted.

I, \_\_\_\_\_, acknowledge that I have read and have had these procedures

explained to me by Investigator \_\_\_\_\_ and that I understand them.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Enf. Div. 6/00

## **TOBACCO COMPLIANCE VIOLATION PENALTY SCHEDULE**

**Compliance penalty schedule for tobacco licensees, for failing a  
State conducted "compliance check" operation.**

<b>1<sup>st</sup> Offense:</b>	<b>Warning</b>
<b>2<sup>nd</sup> Offense:</b>	<b>\$ 100 fine</b>
<b>3<sup>rd</sup> Offense:</b>	<b>\$ 250 fine</b>
<b>4<sup>th</sup> Offense:</b>	<b>\$ 500 fine</b>
<b>5<sup>th</sup> Offense:</b>	<b>\$ 750 fine</b>
<b>6<sup>th</sup> Offense:</b>	<b>Mandatory Hearing</b>

Any violation by a tobacco licensee (7 V.S.A. 1003a) after a first sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows: (1) Two violations- One weekday, (2) Three violations- Two weekdays, (3) Four violations- Three weekdays, (4) Five violations- Three weekend days, Friday through Sunday.

Or the Licensee may appeal to the Board at any time for a hearing on the merits, at which time, if the Board determines that a violation has occurred, it will impose such penalty as in its discretion it deems appropriate. The Board will also take into account any mitigating circumstances such as the licensee's history of compliance.

**Note1: Mandatory training for the licensee, and its employees including the person who sold is required under the first and second offense for fine, suspension, or warning. The Department of Liquor Control will require that a list of all employees attending the mandatory training be sent to its offices in Montpelier.**

**Note2: If no compliance test violation occurs during a 3-year period, the oldest compliance test violation will be removed from the licensee's history record of compliance.**  
VSA 236(b) DLC July 1, 2002